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GEORGETOWN UNIVERSITY LAW CENTER
INSTITUTE FOR PUBLIC REPRESENTATION

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Associate Director
Environmental Law Project
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 13, 2000

Ms. Magalie Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Ex Parte Presentation

**Re: Review of the Commission's Broadcast and Cable Equal Employment
Rules and Policies and Termination of the EEO Streamlining Process, MM
Docket No. 98-204 and 96-16**

Dear Ms. Salas:

Pursuant to 47 C.F.R. §1.1206(b)(1), enclosed for inclusion in the record of the above-referenced proceeding are two copies of a letter from National Organization for Women and Women's Institute for Freedom of the Press to Chairman William Kennard.

Respectfully submitted,

Jeneba Jalloh Ghatt, Esq.
Counsel for
National Organization for Women



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FEDERAL COMMUNICATIONS COMMISSION
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January 13, 1999

The Honorable William E. Kennard
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20544

Re: Commissions' Broadcast and Cable Equal Employment Opportunities Rule

Dear Chairman Kennard:

National Organization for Women Foundation and Women's Institute for Freedom of the Press are writing to respond to a Letter from the Broadcast Executive Directors Association ("BEDA") dated December 29, 1999 (BEDA Letter). The BEDA Letter proposes a "Modified Approach A" which is a revised version of the Mass Media Bureau's "Approach A." As we do not have a copy of the Mass Media Bureau's Approaches A and B, we cannot fully address the impact of BEDA's "Modified Approach A." However, it is obvious that the proposed modification would drastically hinder the achievement of numerous EEO goals. Accordingly, the Commission should reject BEDA's proposal.

BEDA suggests that a station could meet its requirement to widely disseminate job vacancy information by advertising either on "the station, in a newspaper of general circulation or on the Internet." BEDA at 2 (emphasis added). This proposal reduces the requirement of using several advertising modes to only one, effectively frustrating the goal of reaching the widest range of qualified applicants. An especially troublesome aspect of the "Modified Approach A" is its encouraged use of the Internet as the sole means for advertising an available position.

Although we strongly advocate the use of the Internet as a means of recruitment, we strenuously oppose the Internet being used as the only means of posting job openings. The Internet is an effective and necessary tool in this day and age, but it is not readily available to all segments of the population. The reality of the digital divide is well documented and by limiting vacancy notices to a medium that is not widely and equally available to all Americans, broadcasters are not casting the widest net possible.

BEDA asserts that the digital divide is "moot" because state employment offices and other public facilities offer Internet access. Notwithstanding this assertion, there still exist practical issues of availability (e.g., limited hours of operation, length of lines, number of computers), maintenance of systems (e.g. inoperable computers), location (e.g., long travel time required to reach facilities with computers). Furthermore, because of the time sensitiveness of Internet job openings, people who do not have continuous access to the Internet are at a stark disadvantage. Without continued access, a job seeker is unable to quickly follow-up via email, post or update a resume on-line, etc. Even if access is adequately addressed, there remains the problem of individuals being able to find the appropriate websites. For example, we conducted a brief search using terms "jobs broadcasting" and "jobs tv." Only one out of the three popular search engines we used listed the online job bank ("www.careerpage.org") referenced in the BEDA letter. BEDA's proposal that stations be required to promote the URL address "from time to time" to complement its Internet notification option is woefully inadequate. At a minimum, stations should be required to promote the specific URL address on a regular basis in order to ensure that interested parties are informed.

Additionally, under BEDA's proposal, a broadcaster would not have to directly respond to a written request for job vacancy information. A broadcaster would satisfy its notification obligation by merely notifying its State Broadcasters Association. While we encourage the use of State Broadcasters Association as a clearinghouse for job openings, stations should be required to provide notice directly to those individuals or organizations requesting such information. Requiring direct response will encourage broadcasters to develop relationships with high school, colleges and universities and community recruitment offices, local and state civic, labor and employment associations and offices. Moreover, BEDA's proposal shifts accountability of a station's EEO compliance to the State Broadcasters Association -- an entity over which the FCC has no jurisdiction.

BEDA's proposal is unclear with respect to "non-vacancy" activities. Whatever it is, the Commission should reject any proposal that would lower the standard for compliance and undermine the rules. For example, if BEDA's proposal would allow a broadcaster to satisfy its "non-vacancy" requirement by participating in only one outreach effort, then the Commission should reject it.

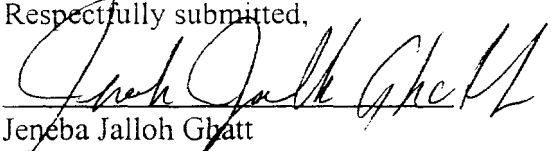
Finally, BEDA's "Modified Approach A" raises serious recordkeeping concerns because it opposes requiring broadcasters to track hire by recruitment sources. EEO goals require the maintenance of records to ensure that necessary steps are being taken. Without such records, broadcasters have no way of assessing whether their EEO efforts are working and the public cannot monitor broadcasters' compliance with the law.

In sum, BEDA's proposed vacancy rules could reduce a broadcaster's notification obligations to advertising positions solely on the Internet and routing requests for information to the State Broadcasters Association. BEDA's approach would frustrate the EEO goal of widely disseminating job information and shifts EEO accountability from the broadcasters to the State Broadcaster Association. Furthermore, because the proposal opposes tracking those hired by recruitment sources, it would undermine the ability of a broadcaster to self-assess these minimal efforts and further limit the opportunity for the public to monitor broadcaster's EEO compliance. For the reasons stated above, BEDA's "Modified Approach A" should be wholly rejected.

Of Counsel:
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Respectfully submitted,


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Counsel for
National Organization for Women
Women's Institute for Freedom of the Press

cc: Commissioner Harold Furchtgott-Roth (via hand delivery)
Commissioner Susan Ness (via hand delivery)
Commissioner Michael Powell (via hand delivery)
Commissioner Gloria Tristani (via hand delivery)
David Goodfriend (via hand delivery)
Thomas C. Power (via hand delivery)
Mark D. Schneider (via hand delivery)
Helgi C. Walker (via hand delivery)
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